

IN THE CIRCUIT COURT OF CAMDEN COUNTY
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)
CHRIS KOSTER, Attorney)
General of Missouri, and SARA)
PARKER PAULEY, Director of the)
Missouri Department of)
Natural Resources,)

Plaintiff,)

v.)

SPANBURG INVESTMENTS,)
LLC,)
and)
DAN SPANBURG,)

Defendants.)

Case No. 10CM-CC00002



POST-JUDGMENT ORDER ON CONSENT

Plaintiff, State of Missouri, at the relation of Chris Koster, Attorney General, and the Missouri Department of Natural Resources; and Defendants Spanburg Investments, LLC and Dan Spanburg, by and through counsel, hereby consent to the entry of this Post-Judgment Order on Consent ("Post-Judgment Order").

This Post-Judgment Order is made, agreed upon and submitted to the Court for the purpose of settlement only, and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Post-Judgment Order in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The

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parties understand and agree that each and every term of this Post-Judgment Order shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Post-Judgment Order. The Court finds that the terms of this Post-Judgment Order protect the public's interest.

The parties hereto, having consented to the entry of this Post-Judgment Order, now therefore, before the taking of any testimony and upon the pleadings, it is hereby ORDERED, ADJUDGED AND DECREED that:

I. Objectives of the Parties

1. The objectives of the parties to this Post-Judgment Order are to protect human health and the environment and to resolve allegations contained in Plaintiff's Application for Show Cause Order.

II. Definitions

2. Terms used herein shall have the same meaning as provided in Chapter 644 and the regulations adopted thereunder. In addition, the following terms are specifically defined:

- a. "Defendants" means Spanburg Investments, LLC and Dan Spanburg.
- b. "Department" means the Missouri Department of Natural Resources.

- c. "Property" means that property formerly owned by Defendants known as Chelsea Rose Estates Subdivision, First Addition, Lots 1, 2, 3 and 4 and a parcel known as Tract B of the Chelsea Rose Estates Subdivision, which has never been owned by Defendants, all located on Chelsea Rose Road, off of Highway F-12, near Sunrise Beach, Camden County, Missouri.
- d. "Plaintiff" means the State of Missouri on the relationship of Attorney General Chris Koster and the Department.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter herein and of the parties consenting hereto pursuant to § 644.051 RSMo (2000).¹ The Defendants' actions giving rise to this action took place in Camden County and venue is proper pursuant to § 644.051 RSMo.

IV. Parties Bound

4. The provisions of this Post-Judgment Order shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other

¹ All statutory references shall be to the Missouri Revised Statutes 2000 unless specifically stated otherwise.

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entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and assigns.

V. Satisfaction and Relief

5. The parties recognize that they entered into a Consent Judgment duly entered by this Court on December 26, 2012 ("Consent Judgment"). The State filed an Application for Show Cause Order on April 25, 2014, asserting that Defendants had failed to comply with the Consent Judgment. The parties agree that Defendants have since added rock to two areas of erosion on the Property, and the Department has inspected the work and agrees to accept completion of this work as satisfaction of the Consent Judgment. The Department also acknowledges receipt of Defendants' payment of an up-front civil penalty of \$4,000 required by the Consent Judgment. Upon completion of all terms of this Post-Judgment Order, Plaintiff hereby releases Defendants from liability under the Consent Judgment.

6. Per the terms of the Consent Judgment, Defendants agreed to the imposition of a stipulated penalty in the event that Defendants failed to comply with the requirements set forth in the Consent Judgment. In satisfaction of Plaintiff's claim for a stipulated penalty under the Consent

Judgment, Defendants consent to the entry of judgment in favor of the Plaintiff for a stipulated civil penalty of \$124,300, of which \$120,300 shall be suspended unless Defendants fail to comply with this Post-Judgment Order. Defendants hereby authorize entry of judgment against them and in favor of the Plaintiff for this sum. Defendants agree to pay the up-front stipulated civil penalty of \$4,000 by check made payable to the "*State of Missouri (Camden County)*." Defendants will mail the check to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899, within 30 days of the date of entry of this Post-Judgment Order.

7. Defendants shall comply with the Missouri Clean Water Law, Chapter 644, RSMo, and its implementing regulations for all future activities in the State of Missouri, and specifically, shall obtain all necessary permits as required by the Missouri Clean Water Law and implementing regulations, and shall prevent the deposition of sediment into waters of the State for any future activities in the State of Missouri.

The parties hereby consent to this Post-Judgment Order on Consent through their duly authorized representatives as indicated below.

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DAN SPANBURG

Dan Spanburg
Dan Spanburg, Individually

Date: 8-3-15

SPANBURG INVESTMENT, LLC

By: *Dan Spanburg*

Title: Pres

Date: 8-3-15

MISSOURI ATTORNEY GENERAL'S OFFICE

Timothy A. Blackwell
By: Timothy A. Blackwell
Assistant Attorney General

Date: 9/3/15

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Steven Fuller
By:

Date: 9/15/15

SO ORDERED.

Robert Z. Fisher
Circuit Judge
Date: 10/16/15